

The Effectiveness of Mediation in Higher Education

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I. INTRODUCTION

This Article describes a mediation program that has been established at the State University of New York at Albany (SUNY-Albany) to help students resolve interpersonal conflicts. This particular mediation program is neither unique, nor is it intended to serve as a model for other such programs. Instead, it is representative of the type of program which some universities are instituting as an alternative means of dispute resolution for students on college campuses.

The actual number of cases examined, and the number of parties responding to questionnaires in this study were limited and not all of the conclusions drawn from the research are explicitly supported by the data. Nevertheless, the significance of this Article does not center around its statistical validity or numerical shortcomings. Rather, this Article is important because it points out yet another field in which mediation is playing a major role.

It has been suggested that mediation programs in higher education are valuable and reliable resources for universities.¹ Not only are these programs less intimidating and more responsive than the judicial system to disputants, but these programs are educational as well. This research establishes an empirical basis upon which to assess the potential impact of one such program and its success in achieving its goals. The areas of potential impact to be evaluated include: (1) compliance with the written agreement; (2) client satisfaction; (3) expediency of the resolution to the problem and the process; (4) de-escalation of the situation; and (5) impartiality and confidentiality of the mediators and the Mediation Center.

The newness of this field has not yet permitted detailed or conclusive analysis of the implications related to the use of mediation in higher

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1. See generally W. ELAM, READINGS ON COLLECTIVE NEGOTIATIONS IN PUBLIC EDUCATION (1968); J. ANDES, DEVELOPING TRENDS IN CONTENT OF COLLECTIVE BARGAINING CONTRACTS IN HIGHER EDUCATION (1974); T. TICE, FACULTY BARGAINING IN THE SEVENTIES (1973); T. GILROY, A. SINICROP, F. STONE & T. URICH, EDUCATORS GUIDE TO COLLECTIVE NEGOTIATIONS (1969); W. KEAST, FACULTY TENURE (1973).

education institutions. Nevertheless, issues such as satisfaction, expediency, and compliance must be evaluated to determine the effectiveness of mediation programs. These findings might be useful to academic institutions and administrators that have existing mediation centers, to academic institutions and administrators trying to establish mediation centers, and to institutions where the quality of the relationships among members of the community is an integral part of that institution.

Universities and colleges across the nation experience a broad range of problems related to campus life. The daily life of a student centers around interactions with peers. For the most part, students interact with each other in a positive and friendly manner. Yet, on certain occasions, differences of opinion, miscommunication, misinformation, or misunderstandings precipitate conflicts. These conflicts can generate stress which often needs to be directed to suitable relief valves.

At SUNY-Albany, a fundamental goal of the University is to help students who become involved with a conflict resolve their problems and learn how to avoid future difficulties. Reeducation of the students may be accomplished through a wide range of paradigms. In this study, two paradigms are explored. The first paradigm, which focuses on the act itself, and not necessarily on extrinsic factors, is referred to as a "formal mechanism of control." Formal mechanisms of dispute resolution include Hearing Officers, Judicial Boards, and Student Conduct Committees. The second paradigm, which focuses on situational and social factors as well as the act itself, is referred to as the "informal mechanism of control." Informal mechanisms of control include peer advisement, staff advisement, and mediation.

SUNY-Albany, like many other academic institutions, is slowly encouraging the use of informal mechanisms to deal with conflicts in residence halls. The emergence of informal mechanisms has created greater faith and understanding in participatory schemes. Instead of strictly punishing an offender and pitting one person against another, informal mechanisms focus on cooperation, participation, and understanding to reeducate and prevent future conflicts.

The attempt to move from formal mechanisms to informal mechanisms has created controversy among administrators in academic institutions.² This study evaluates one type of informal mechanism, mediation, and analyzes whether informal mechanisms of control are appropriate for

2. While there are numerous factors that make some administrators apprehensive about relying on informal mechanisms of dispute resolution, including uncertainty about starting something new and fear of potential "start-up" costs, the biggest debate centers around the idea that mediation will do nothing but "drag the dispute on." Hopefully, the results from this study will put some of these fears to rest, and will help administrators realize that informal mechanisms of dispute resolution are both viable and beneficial.

academic institutions, and more importantly, appropriate for the students at these academic institutions.

This study focuses on impartiality of mediators, de-escalation of situations, client satisfaction, expediency of resolving the problem, and compliance with written agreements. The main objectives of this study are: first, to ascertain whether the mediation agreements are being upheld; and second, to evaluate client satisfaction with the mediation process. If the terms and conditions of an agreement are not being upheld, then one might expect that the clients are not satisfied with mediation. On the other hand, if the terms and conditions of the agreement are being upheld, one might anticipate the clients should be satisfied, the mediation should be successful, and the problem should have been de-escalated. For the most part, this study confirms those beliefs.

II. THE ROLE OF MEDIATION

Mediation encourages and facilitates compromise. Instead of one party winning and another losing, the parties hope to arrive at a "win/win" solution through participation and cooperation.³ A non-adversarial setting is inherent in mediation. The mediation process consists of one or more neutral parties using various skills and techniques to assist parties in achieving a negotiated resolution of the conflict. These skills may include, but are not limited to, encouraging the participants to speak to each other, asking for clarification, "caucusing,"⁴ and reflective listening.

Mediation, unlike adjudication, does not impose an outside decision upon disputants; rather, a solution is agreed upon by all parties.⁵ Theoretically, parties exit with positive feelings about the situation and with an understanding of how to deal with similar situations in the future. In addition, the procedure is informal and is not dependent on application of preexisting legal standards. Instead, the process seeks a mutually acceptable solution that will serve the underlying interests of the parties.⁶ Thus, the mediation process demands individualized attention to the consideration of conflicts, and a resolution specifically tailored to the

3. Riskin, *Mediation and Lawyers*, 43 OHIO ST. L.J. 29, 34 (1982).

4. The term "caucusing" takes on much the same meaning in the realm of alternative dispute resolution as it does in the political realm. Whereas a political caucus is a meeting of the local members of a political party to nominate candidates, determine policy, and work out any problems that might exist within the delegation, "caucusing" within the process of mediation also means to determine policy, and examine the disputes which exist between the parties in conflict.

5. Head, *Dispute Resolution in Texas: Problems and Prognosis* 16 (Mar. 1987) (unpublished manuscript presented at the annual meeting of the Academy of Criminal Justice Sciences in St. Louis, Mo.).

6. Cooley, *Arbitration v. Mediation — Explaining the Differences*, 69 JUDICATURE 263, 264 (1986).

facts of the conflict.⁷

The use of alternative dispute resolution mechanisms, mediation in particular, has a long history. The biblical story of Solomon's efforts to resolve a dispute between two women who claimed motherhood of a child may be one of the first examples of "informal conflict resolution." Yet, only in the past decade has conflict resolution become a professional and an academic field.

Mediation has had its greatest use in the area of industrial relations.⁸ However, its use in the community began with the Community Relations Service of the United States Department of Justice (CRS), created by the Civil Rights Act of 1964. The CRS was established to provide assistance to communities involved in disputes stemming from discriminatory practices based on race, sex, or national origin.⁹ The use of mediation has extended into various areas including criminal proceedings, juvenile justice, family law, consumer affairs, medical malpractice, housing, and most recently, education. On a national level, organizations such as the National Association for Mediation in Education (N.A.M.E.), have facilitated development by encouraging the inclusion of mediation training curriculum and by utilizing mediation in the educational arena.¹⁰

In higher education, many universities now offer courses in mediation.¹¹ Additionally, many law schools and graduate programs now teach skills and techniques of mediation, and a number of certificate and degree programs have been established in dispute resolution.¹² Furthermore, several academic institutions have established on-campus mediation centers to deal with disputes in the campus community.¹³

The first court system-sponsored dispute resolution program was started in Columbus, Ohio.¹⁴ John Palmer, a law professor, devised the idea of holding informal hearings in the prosecutor's office on weekends and in the evenings. Law student volunteers heard cases and, whenever

7. Hoover, *Mediation and the Legal System*, 15(1-2) MANCHESTER COLLEGE BULLETIN OF THE PEACE STUDIES INSTITUTE (1985).

8. Wehr, *Conflict Resolution Studies: What Do We Know?*, DISPUTE RESOLUTION FORUM, Apr. 1986, at 2-3, 12.

9. *Id.* at 3.

10. While the National Association for Mediation in Education (N.A.M.E.) is one of the frontrunners in encouraging the inclusion of mediation training in curriculum and by utilizing mediation in the educational arena, other organizations such as the American Association of University Professors (AAUP), the National Education Association (NEA) and the American Federation of Teachers (AFT) recognize the potential impact of mediation as well. For general background reading, see AAUP, *ACADEMIC FREEDOM AND TENURE* 3 (L. Joughin ed. 1969); W. EATON, *THE AMERICAN FEDERATION OF TEACHERS* (1975); R. CHANIN, *PROTECTING TEACHERS' RIGHTS* (1970).

11. Wehr, *supra* note 8, at 4.

12. *Id.*

13. *Id.* at 12.

14. See J. PALMER, *COLUMBUS NIGHT PROSECUTOR'S OPERATING PROCEDURES* (Library of the Ohio State University College of Law). The program objectives of the Night

possible, helped disputing parties work out agreements.

Despite the rapid growth of the use of mediation on college campuses, and the growing body of research on mediation in general, no research has evaluated the impact and effectiveness of on-campus mediation centers. Given mediation's increasing use, and the unique organizational and social climate features of academic institutions, such research is warranted.

Within a community, standards and norms predispose behavioral expectations of the citizens. These expectations develop to allow the community to prosper and attain common goals. The common goals are usually determined by the type of community. Although the primary goal of academic institutions is to educate students, on certain occasions students become involved in disputes. When disputes arise, the academic institution must carefully balance the primary goal of education with secondary goals of discipline and order so as to effectively resolve the conflict.

At SUNY-Albany, a program called "Mediation" (hereinafter Mediation) has been established to effectively deal with situations involving interpersonal relationships.¹⁵ The immediate goal of Mediation is to resolve disputes through communication. Long term goals include educating the student on the principles of communication and preventing future conflicts. Reliance on mediation quells future misbehavior, helps all parties feel like winners, and mitigates animosity, miscommunication, and misunderstandings.

Prosecutor's Office include the following: 1) reduce court congestion; 2) remove the stigma of an arrest record which might otherwise result; 3) to ease interpersonal tensions between parties involved in a dispute by developing an equitable solution to their problems without requiring them to resort to the remedies of the formal criminal process; 4) to provide a public agency and public forum that is available to all classes of our society during their non-working hours; and 5) to promote faith in the American legal system by listening to all grievances and taking quick action in each case so that the citizen will feel that the law and the government care what happens to him individually. Many of these program objectives are helpful when thought of in terms of mediation in general.

15. Thus far, the faculty and administrators involved with "Mediation" are pleased at the strides which the program has made, however, they would like to see continued growth and advancements with regard to the number of students using the program, and the program's success rate.

III. THE STUDY

A. *The Structure of Student Affairs*

Most universities in the United States have some sort of central office where student disputes are resolved and conduct is controlled. At SUNY-Albany, a primary responsibility of the Student Affairs Office is to establish mechanisms which will resolve conflicts, control conduct, and reeducate students on expected behavior.

The Office of Residential Life is responsible for implementing judicial and mediation services. (See Appendix A for a break down of the structure of the Office of Student Affairs.) When a conflict arises, it is the duty of the Office of Residential Life to evaluate the situation and determine the appropriate mechanism of control. The Office of Residential Life has established two distinct mechanisms to control conduct and resolve disputes: a judicial system and Mediation. Both mechanisms will be discussed. This study, however, will focus on Mediation and its effectiveness in academic institutions.

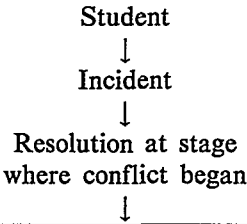
The first mechanism referred to as the “judicial system” at SUNY-Albany, exists mainly to control and discipline the students’ conduct. It is often referred to as a “formal mechanism of control,” and is implemented by the Office of Residential Life. The judicial system resolves the conflict and quells future misbehavior through deterrence. This formal mechanism of control is necessary to prevent students from disregarding laws, policies, and norms of their community.

The second mechanism, Mediation, is also implemented by the Office of Residential Life. This new mechanism attempts to resolve conflicts through negotiation and communication and is considered an “informal mechanism” since it encourages all parties to exit as winners and it does not impose the strict rules and procedures of an adversarial setting.

Table 1 represents a composite of the procedural options available to a student with a conflict at SUNY-Albany.

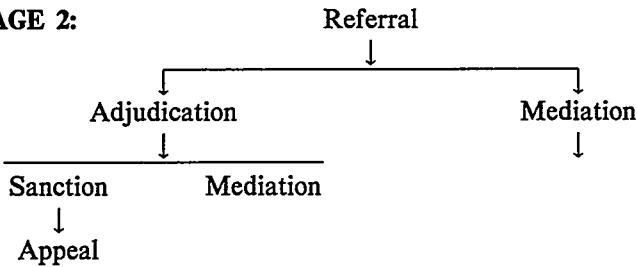
Table 1

STAGE 1:

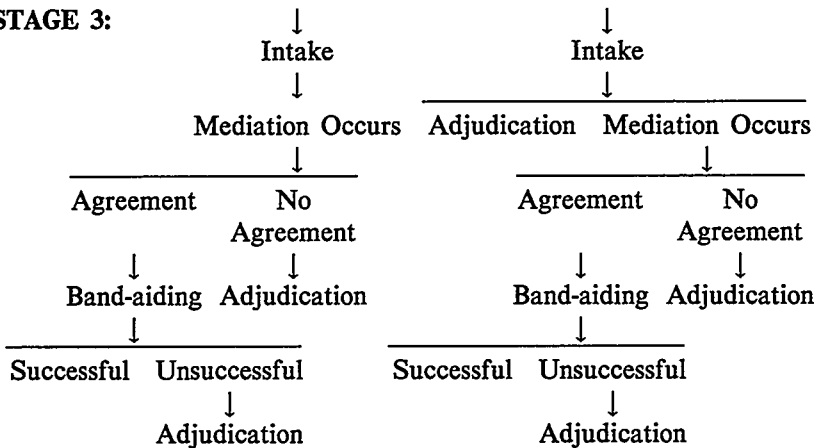


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STAGE 2:



STAGE 3:



Stage 1: This stage is often called the “informal resolution of conflict” stage. In practice, students involved in disputes discuss the situation and try to resolve the conflict themselves. Communication and confrontation skills are necessary elements in resolving the conflict. If a student feels uncomfortable in confronting a situation, then the incident is usually brought to the attention of others. Students often go to a friend, a Resident Assistant (R.A.), or a Resident Director to resolve their problem. Most of the time the student merely needs a boost of confidence and guidance in understanding how to approach the disputing party.

In some cases a third party might decide to intervene and begin a fact-finding mission.¹⁶ At this point, professional guidance is beneficial. Encouraging students to resolve their problems is important. Yet, one must be careful not to disregard the problem too casually. If this is done, the student may perceive the intervenor as unconcerned.

16. At SUNY-Albany, the professional staff of Resident Directors hold behavioral interviews with all parties and discusses their situation whenever there is a need to do so.

On the other hand, premature intervention by a third party may cause the problem to escalate. Disputing parties may become defensive if they are not given a chance to communicate with the other parties before the dispute is brought to the attention of a third party. Thus, timing is a crucial element of the process.

Stage 2: At this stage, formal mechanisms (written agreements or established procedures) become necessary to the resolution of the conflict.

Referral - A referral is a descriptive, written account of a conflict which exists within the academic community. The Resident Director refers the situation to the Office of Residential Life. The Office then decides what is the best way to resolve the conflict. For situations to be appropriate for Mediation, both parties must have something to win and something to lose, some type of relationship between the parties must exist, and there must not be extreme power on one side. Ultimately, all parties must agree on Mediation. Whether it be adjudication or Mediation, the final decision rests with the Office of Residential Life and the participants.

Adjudication - At this stage, the administrator in charge of the judicial system has reviewed the conflict and has decided that serious infractions of norms and expectations necessitate the use of a formal resolution of the conflict. The adjudicating role is often filled by a judicial board of peers, a student conduct committee, or a hearing officer, depending on the type of infraction and the timeliness of the infraction.¹⁷ After hearing the case, the board makes a recommendation to the Office of Student Affairs as to "guilt" or "innocence" and the appropriate sanction. At the adjudication stage, a win/lose philosophy is inherent. Parties in adjudication are treated as adversaries. Rather than reaching a mutual agreement based on compromise, "winners" and "losers" are determined. In certain situations, where either the Office of Residential Life has decided that adjudication is inappropriate or where one party objects to adjudication, the judicial board may suggest that the disputing parties go through Mediation instead of deciding guilt or innocence.

Stage 3: Often called the "informal mechanism for disputes," mediation attempts to educate the disputing parties and encourage participation in resolving the conflict.

Mediation - Once a situation has been referred to Mediation, either through an administrator or through the adjudication process, both

17. The Student Conduct Committee is comprised of faculty, staff, and students. Most of the time this body deals with cases concerning academic dishonesty (i.e. plagiarism). Nevertheless, in some instances, this committee does hear residence-related cases.

parties (or all parties involved) are processed through an intake mechanism. The intake mechanism consists of a third party, usually an administrator of the Mediation Center, who communicates with the parties involved. The intake officer collects basic information such as name, class year, and type of problem. Simple questions are asked, such as: "Is this an appropriate case for mediation?" and "Are the parties willing to go through mediation?"¹⁸ If the intake officer feels either answer is questionable (not a definite "yes"), the situation may be referred to adjudication. If the answers are suitable, the intake officer's role is to neutralize the dispute. Once the dispute is neutralized the intake officer sets up suitable times and compatible mediators to address the problem.¹⁹ Before mediation takes place, each party signs a communication disclosure stating that he understands the process and will abide by the rules. The parties are also informed that the information is confidential and is not to be communicated to others. As mediation begins, all parties discuss the problems which they have encountered. Each problem is addressed individually and all parties attempt to reach a compromise on the situation. The mediators, through their training, use various skills and techniques to facilitate discussion and reach a compromise. After a compromise has been reached, the parties sign a contract stating the conditions. If an agreement cannot be reached, the parties will go through the adjudication stage.

If the conditions of an agreement are broken, any party may initiate an action for the adjudication stage. Usually, the intake officer calls in the party who broke the contract and uses a device called "Band-aiding." Here the officer explains the process again to the party and shows him the contract which he has signed. The party is given two choices: either abide by the agreement or go through the adjudication stage.

This model, which is sometimes referred to as an "integrated model," allows dissatisfied students to initiate a formal grievance process.²⁰ The model allows for flexibility. Instead of automatically referring a case to the adjudication stage, the referral source or administrator may opt for Mediation. A potential problem with this approach, however, is that it gives a great deal of discretion to the referral source and to the administrator in charge of deciding whether the case is appropriate for Mediation or adjudication.

18. The "conciliation stage" is another name for this stage of discussion.

19. For the most efficient results, the mediators must be selected according to the circumstances surrounding a particular case. If a case concerns pregnancy, for instance, it might not be wise to use two male mediators.

20. Folger & Shubert, *Resolving Student - Initiated Grievances in Higher Education*, 3 NATL INST. DISPUTE RESOLUTION REP. 4 (1986).

B. Procedures

The Mediation program at SUNY-Albany, has been studied to ascertain its potential impact and effectiveness. During the course of this study, five areas of effectiveness were examined: client compliance, client satisfaction, expediency of resolving the problem, de-escalation of the problem, and impartiality and confidentiality. The rationale behind studying client compliance is that if the terms and conditions of the agreement are being upheld, then clients are probably satisfied with Mediation. If students learn something from the process and they recommend the process to other students, others might have more faith and trust in systems and institutions. Conceivably, mediation programs can be effective in academic institutions in resolving interpersonal disputes.

Evaluating the Mediation process first required collection of all available information. The information was divided into two categories: the first concerning characteristics, the second concerning perceptions. The first category considered who was most likely to use Mediation, and examined whether there were any factors which might be determinative of successful Mediation. The second category consisted of information provided from an "immediate" questionnaire and a "long term" questionnaire. The immediate questionnaire was developed and established by the Mediation Center at Albany. This questionnaire tested the perceptions of the client at the termination of the mediation session. When a mediation session was completed, all participants were requested to fill out an immediate questionnaire. (A copy of the immediate questionnaire is presented in Appendix B1.)

The second questionnaire, implemented for this study, was developed from preexisting questionnaires used by mediation centers across New York State, and from the immediate questionnaire. (A copy of the long term questionnaire is presented in Appendix B2.) In fact, four questions were taken verbatim from the immediate questionnaire to evaluate any change in perception. The long term questionnaire tested perceptions of students after they had a chance to implement the written agreement.

The long term questionnaire was sent out to eighty-five clients who had gone through Mediation. Each case was coded with a case number and an individual number. The individual number indicated each party within a case. An assistant of the Mediation Center was in charge of coding, sending, and receiving the responses. This was done to protect confidentiality of the client. The long term questionnaire was sent to all clients in January, 1987. Some clients had a one month reflection period, while others had a year. Twenty clients responded after three weeks. A follow-up questionnaire/letter was not sent because of time and resources.

A test was constructed to evaluate whether the twenty responses were an accurate representation of the overall student population who had

gone through Mediation. It was possible that those who sent in the long term questionnaire were either extremely dissatisfied with Mediation for some reason, (i.e. the terms and conditions were not being upheld), or they were extremely satisfied with Mediation. Those who were neutral might not have sent in the questionnaire. In order to ascertain whether these twenty responses were an accurate representation, a "T-test" of individual characteristics was done.²¹ The findings of that test reveal whether the requirement of "band-aiding" was statistically significant. (See Appendix C).

C. Measures of Evaluation

Compliance: To evaluate client compliance, question one on the long term questionnaire was utilized. This question, "to what extent are the major terms of your agreement being upheld," was constructed to evaluate whether the clients were still abiding by their agreements.

Client Satisfaction: To test client satisfaction, a comparison of question one on the immediate questionnaire with question three on the long term questionnaire was utilized. These questions were identical, "how satisfied were you with Mediation as a way of resolving the problem?" One might presume that the responses would not vary over time, unless for some reason the terms and conditions of the agreement were not being upheld, or the client had simply lost faith. A comparison of the grand means for the immediate questionnaire and the long term questionnaire was also constructed. This was done by adding up the means for questions two through eight on the long term questionnaire and the means of questions one through six on the immediate questionnaire, and then dividing by the respective number of cases. The questions were all identical. Thereby, the grand means was intended to reflect overall happiness with Mediation.

Expediency: To test expediency of the resolution of the problem, a comparison of the time frames between intake and the actual mediation was utilized. As is often the case in the adjudication stage, if a problem is not resolved quickly, it is possible that the participants may become disenchanted and lose faith before ever going to mediation. A comparison of how long the mediation lasted was also utilized. This was done to evaluate whether time had any relationship to satisfaction.

De-escalation: It has been suggested that mediation de-escalates the problem because, instead of pitting one party against another, both

21. The purpose of a "T-Test" is to compare the sample data used in the study with the actual population. The "T-Test" shows whether the sample population accurately depicts the population as a whole. In terms of this study, the "T-Test" is used to see whether the students who returned the questionnaire were an accurate representation of the student population that went through Mediation.

parties have equal say in an agreement.²² To evaluate whether the problem was reduced permanently or temporarily, a comparison of the long term questionnaire questions one, two, and ten was utilized. Questions one and two elicit whether the conflict was resolved. Question ten elicits if the relationship improved, thereby, de-escalating the situation.

Impartiality and Confidentiality: Confidentiality in mediation refers to whether statements made during the mediation session are open to public scrutiny. Can a court request the recorded proceedings of a session? Or, does the mediation process in higher education share the client-professional confidentiality with that of lawyers and doctors? Impartiality, on the other hand, refers directly to the ability of the mediators or the Center to act in a fair and just manner. Because there is no way to accurately measure the mediators' and Centers' actions in terms of impartiality, an analysis was constructed from the perception of the clients. How the clients perceived the mediator's and Center's actions and their abilities to be impartial was examined.

Impartiality: To test impartiality, a comparison of question five, "How would you rate the mediators who worked with you on this dispute," and question six, "The dispute mediation staff was," on the immediate follow-up questionnaire was utilized. These findings were then compared to question seven, "Do you think the mediators listened to both sides and understood the conflict," and question eight, "Do you feel that the other persons involved in this matter had an equal say in reaching the agreement" on the long term questionnaire to ascertain whether perceptions changed over time. If perceptions did change, what was the causal factor for the change?

D. Findings

In order to test client satisfaction, impartiality, de-escalation, and expediency, a comparison of both questionnaires was utilized. These questionnaires, immediate and long term, evaluated client perceptions immediately after the mediation and at least one month later. Identical questions were compared along with other questions. (See Appendix D).

It has already been established that those clients who responded to the long term questionnaire were similar in characteristics except for race and band-aiding. Appendix E presents the range, mean and standard deviation of scores for the long term questionnaire and the immediate questionnaire and shows the significant differences.

In terms of satisfaction, the respondents felt satisfied with Mediation

22. See generally D. FOSKETT, *THE LAW AND PRACTICE OF COMPROMISE* (1985); J. FOLBERG & A. TAYLOR, *MEDIATION* (1984); R. FISHER & W. VRY, *GETTING TO YES* (1983); S. GOLDBERG, E. GREEN & F. SANDER, *DISPUTE RESOLUTION* (1985).

as a way of resolving their problems immediately after the mediation session. The long term questionnaire reveals that the client's perception of satisfaction decreased over time to only "somewhat satisfied." (See Appendix E).

The responses for question two on the immediate questionnaire and question four on the long term questionnaire, "whether a respondent would bring a similar problem back to the Dispute Mediation Center," were contingent on when the respondent filled out the questionnaire. The mean for the immediate questionnaire reveals that the respondents would *probably* bring a similar problem to the Mediation Center. Yet, the long term questionnaire reveals that over time the client's perception changed from "probably" to "*probably not*."

The scores for question three on the immediate questionnaire and question five on the long term questionnaire, "would they recommend the Dispute Mediation Center to others with similar problems," indicate that the clients' perceptions changed over time. Initially, the clients would probably recommend the Dispute Mediation Center. Yet, the long term questionnaire reveals that the clients would *probably not* recommend the Center.

The scores for question four on the immediate questionnaire and question six on the long term questionnaire, "Did the respondent feel that Mediation was a better way of resolving their problem than taking it elsewhere," indicate that the clients' perceptions changed. Initially, the respondents thought that Mediation was probably a better way of resolving their problem. The long term questionnaire reveals that over time the respondents felt that Mediation *might* have been the best way of resolving their problem.

The scores for question five on the immediate questionnaire and question seven on the long term questionnaire, rating the mediators who worked on the dispute, reveal that client perceptions did not change over time. Initially, the respondents felt that the mediators were helpful and this perception remained constant over time.

A grand mean was constructed to evaluate overall satisfaction. The grand mean was constructed from questions one through six on the immediate questionnaire, and questions three through eight on the long term questionnaire. These scores signify that in general, client perceptions change over time from being satisfied to being "somewhat satisfied."

E. Long Term Questionnaire (See Appendix D)

Question 1: The scores for question one, "To what extent are the major terms of your agreement being upheld," ranged from fully (1) to not at all (3). The mean and standard deviation for this question were 1.9 and 1.0, respectively. This signifies that most mediation agreements were being fully upheld. This certainly suggests that mediation

might be an alternative to the judicial process, and not merely a temporary holdover for conflicts.

Question 2: The scores for question two, whether the respondent felt satisfied with how the agreement is working, ranged from very satisfied (1) to not satisfied at all (5). The mean and standard deviation for this question were 2.8 and 1.6, respectively. This signifies that most respondents felt "somewhat satisfied" with their agreement. Yet, some variation existed among the respondents, as indicated by the standard deviation. These findings suggest that while most of the respondents felt satisfied with their agreement, there were a few who felt extremely dissatisfied with how their agreement was working.

Question 8: The scores for question eight, whether the respondent felt that both parties had an equal say in the agreement, ranged from completely (1) to not at all (5). The mean and standard deviation for this question were 3.0 and 1.2, respectively. This signifies that most of the respondents felt that each party had basically an equal say in reaching the agreement.

Question 9: The scores for question nine, which asked to describe the relationship before the conflict, ranged from friends (1) to other (5). The mode for this question was 5 (roommates/suitemates). This signifies that most of the respondents' conflicts were with their suitemate or roommate. This evidence suggests that this Mediation Center deals primarily with interpersonal conflicts. This is further substantiated by evidence regarding the type of dispute. The dispute ranged from harassment (1) to other (6). The mode for this variable was suitemate and roommate conflicts.

Question 10: The scores for question ten, describing the relationship with the disputing parties after Mediation, ranged from improved (1) to worsened (3). The mean and mode for this question were 2.2 and 3.0, respectively. This signifies that most of the respondents felt that their relationship had deteriorated since the mediation.

Question 11: The scores for question eleven, whether the respondents felt that the Mediation process helped them with other problems, ranged from completely (1) to not at all (5). The mean and mode for this question were 3.6 and 5, respectively. This signifies that most of the respondents felt that the Mediation process did not help them with other conflicts. A basic assumption that mediation encourages disputing parties to learn to communicate with others might not be supported by this data. However, one possible reason for this finding is that the time sequence for the long term questionnaire was not constant. Clients who went through Mediation in January of 1985, and respondents who went through Mediation in December 1986, were both sent this questionnaire in January of 1987. Thus, the time lag differed for each case. Nevertheless, in both instances, perceptions and reactions were negative. This

suggests that those who participated in November or December may not have had time to evaluate or reflect on their situation. An accurate determination simply cannot be made from this research.

F. Mediation, Client, and Mediator Characteristics

The data on characteristics of Mediation is based on all the clients who went through Mediation. (See Appendix F).

Days Until Mediation: The scores for this variable, the number of days from intake to disposition, ranged from one day to nineteen days. The mean and standard deviation for these variables were 7.4 and 5.2, respectively. On average, it took seven days for a case to be mediated. (See Appendix F).

"Band-aiding": The scores for this variable, whether "band-aiding" was necessary, ranged from yes (1) to no (2). The frequency of the responses is shown in Appendix F. The members indicate that most of the cases did not require "band-aiding." In fact, only 31% of the cases required any adjustment.

Time: Mediation sessions lasted from 30 minutes to 270 minutes. The time variable was rounded off to the nearest half hour and the mean and standard deviation for this variable were 149 minutes and 63 minutes, respectively. This demonstrates that it usually took two and one half hours for a mediation session to be completed. (See Appendix F).

Dispute: Scores for the variable relating to the type of dispute, ranged from harassment (1) to other (6). The frequency for this variable is represented in Appendix F. It shows that most mediated disputes involved a roommate or suitemate conflict.

Success: Whether the Mediation was "successful," is reflected in scores which measured whether the dispute went to another agency (*i.e.*, the judicial system). These ranged from yes (1) to no (2). Most of the cases—80%—were successful.

The data on characteristics of the clients is based on all who participated in Mediation. (See Appendix G).

Race: The race of the clients was indicated by scores from (1) for white to (5) for other. The mode for this variable was 1, thus indicating that most of the clients—81.2%—were white. (See Appendix G).

Sex: Scores reflecting the sex of the participants were represented by (1) for men and (2) for women. The mode for this variable was 2, showing that the majority of the clients—59%—were women. Whether this is disproportionate may depend upon the distribution of students at SUNY-Albany. The percentage of female students at SUNY-Albany is 51.8%.

Class Year: The scores for this variable, class year, ranged from freshman (1) to graduate (5). Since the mode for this variable was 1,

most of the clients were freshmen (47%). Again, the proportionality of this statistic depends upon the distribution of class year at SUNY-Albany. The percentage of freshmen at Albany is 18%, thus indicating that freshmen at SUNY-Albany had more conflicts which were resolved through Mediation.

The data on characteristics of the mediators was gathered from the mediated cases. In this study there were two mediators for each case. (See Appendix H).

Mediator's Race: Race was indicated by numbers ranging from (1) white to (4) Hispanic. The mode for this variable was 1, signifying that white mediators handled most of the cases. (82% of the cases were mediated by white mediators. See Appendix H).

Mediator's Sex: The scores for this variable, the mediator's sex, ranged from male (1) to female (2). The mode for this variable was 1. This signifies that the male mediators mediated slightly more cases than female mediators. (See Appendix H).

G. Determinative Factors of Successful Cases

Data for determining any correlation of factors indicating success in cases is based on all clients' experiences in Mediation. (See Appendix I).

A "chi square test" was constructed to determine which of the variables were statistically significant.²³ The data suggests that when "band-aiding" is done, the chances of successful mediation decreases significantly. In fact, only 38% of the cases which required "band-aiding" were successful. This may be because a situation may already be in jeopardy if it has to be "patched." On the other hand, it implies that the first mediation may have never addressed "real" problems. (See Appendix I).

The data indicates that the client's perceptions in terms of satisfaction, change over time. Initially, the client's perceptions are generally positive but they become neutral or slightly negative in the long run. Thus, as time passes, positive feelings diminish. If the parties are satisfied, hopefully they will have learned the ideals of cooperation and participation.

In this study, the data reveal that most major terms of the agreements are being upheld. This disavows the pessimistic theory that mediation is a "purgatory" for conflicts until they reach a breaking point.

23. Introduced in 1900 by Karl Pearson, chi-square is the most important of all distribution-free tests. While the test is distribution free, it makes no assumption about the population from which the sample is drawn. The chi-square distribution has zero as its lower limit and extends to infinity in the positive direction. Chi-square tests deal with frequencies against presupposed frequencies or costs, i.e. the number of observants that fall into certain categories.

The data reveals that even though clients felt somewhat satisfied with Mediation and the manner in which their agreements are being upheld, over time the client's perceptions change negatively about bringing a similar problem to Mediation and about recommending the Dispute Mediation Center.

The data also suggests that the mediators are perceived to be fair and listen to both sides of the dispute. Yet, it was also revealed that there were not many cases mediated by minorities even though 18% of the cases involved minorities. (See Appendix J). It is essential that academic institutions have minorities mediating cases where minorities are involved. It is therefore advisable that minorities are represented equally.

IV. CONCLUSIONS AND RECOMMENDATIONS

In general, this data suggests that mediation can be a viable and valuable tool for an academic institution in resolving problems. Not only are the terms and conditions of agreements likely to be upheld; but, clients seem generally satisfied with mediation as a way of resolving their conflict. Nevertheless, if a conflict persists, further discussion must be undertaken. This will enable the disputing parties to air other complaints which may not have been settled before.

The data also suggest that cases involving interpersonal conflicts are more likely to go through Mediation. Certain cases which might be appropriate for Mediation, however, are sometimes ignored. Much of this results from the unlimited discretion of administrators. Mitigation of this discretion may be possible by *first* asking the disputing parties whether they would prefer to go through Mediation before having an administrator make the decision as to whether this is an appropriate situation for Mediation. This allows the parties to decide on the appropriateness of the situation and on what is required to resolve the conflict, rather than automatically imposing formal mechanisms.

In terms of confidentiality, mediation in New York, as a part of the Unified Court System, shares the client-professional confidentiality privilege. As of yet, these rights have not been determined in terms of whether mediation centers in the educational arena share the same privilege. It is the opinion of some that the court will recognize this relationship.²⁴ Yet, administrators should be wary of the implications if the court were to negate this relationship.

Although this research might be valuable to administrators and universities, there are problems inherent with the study. The main

24. Friedman, *Protection of Confidentiality in the Mediation of Minor Disputes*, 11 CAP. U.L. REV. 181, 190 (1981).

drawback is the data and sample size. Findings for this study were based on three semesters of mediation data. The study examined only 85 clients and 27 cases. Additionally, the long term questionnaire which tested client satisfaction over time and client compliance was based on only 20 cases. Stated simply, one must be cautious in over-generalizing this data.

Another problem inherent within this research is missing data. For 20% of the data concerning the mediator's sex and race was unrecorded by the Center. Thus, statistics were calculated without that data.

Finally, this research attempts to evaluate client compliance and satisfaction over time. One problem in this study is that the client reflection period was not constant. For some, the reflection period was a year, while for others the reflection period was only a month. It can be questioned whether some clients had enough time to actually reflect upon their situation and evaluate the programs honestly.

The main objective in this study was to determine if the terms and conditions of the clients' agreements were still being upheld, and whether the clients felt satisfied with Mediation. The data reveals that, for the most part, the agreements were being upheld. Yet, client satisfaction does decrease over time. Although there are some problems with the data, these results may encourage the use of mediation programs in academic institutions.

Academic institutions, where the quality of life is an integral part of the educational arena, should develop informal mechanisms of control (i.e. mediation centers). This study suggests that mediation is an effective alternate dispute resolution mechanism. Yet, this research must not be overgeneralized. The study does not suggest that mediation is the only alternative for resolving disputes, but it can be a viable alternative in certain situations.

Although this study has important ramifications for administrators and others, this study does not address many key areas. These areas include an analysis of informal mechanisms of control versus formal mechanisms of control in determining which mechanisms resolve the dispute more effectively. Future research should address the question of whether mediation is effective in resolving other problems in the academic community, and not solely interpersonal problems. Future research should also focus on how the ideals of cooperation and participation may be invoked through mediation. Similar studies could suggest innovative uses of mediation programs in the university sector, utilizing and recognizing the impact of sex, race, and cultural characteristics on the role of mediation in various societal settings. Finally, future research must be done on mediation programs which have a larger data set. Future research must attempt to collect more data to substantiate the claims made.

Appendix A: Student Affairs Model

(STUDENT AFFAIRS)

Vice President

Assistant Vice President
Director of Judicial/Mediation
Services

(RESIDENTIAL LIFE)

Judicial ← → Mediation

Jud/Med

↑
Resident Directors

↑
Resident Assistant

“Conflicts”

“Conflicts”

“Conflicts”

“Conflicts”

Appendix B1: Immediate Follow-up Questionnaire

Program # _____

Case # _____

This is a short, one-page reaction/suggestion form to help us serve you better through our Dispute Mediation Center. Please check the box you feel best describes the services you received at our center. Please leave this form completed in our waiting room "Suggestion Box" or return it by mail tomorrow. Thank you.

1. How satisfied were you with the mediation as a way of resolving your problem?

Completely Satisfied	Satisfied	Somewhat Satisfied	Dissatisfied	Completely Dissatisfied
[]	[]	[]	[]	[]

2. Would you bring a similar problem to our Dispute Mediation Center?

Definitely	Probably	Maybe	Probably Not	Definitely Not
[]	[]	[]	[]	[]

3. Would you recommend this Dispute Mediation Center to others who have similar problems?

Definitely	Probably	Maybe	Probably Not	Definitely Not
[]	[]	[]	[]	[]

4. Did you feel Mediation was a better way to resolve this problem than taking it to Court or through the Judicial System?

Definitely	Probably	Maybe	Probably Not	Definitely Not
[]	[]	[]	[]	[]

5. How would you rate the mediators who worked with you on this dispute?

Definitely	Probably	Maybe	Probably Not	Definitely Not
[]	[]	[]	[]	[]

MEDIATION IN HIGHER EDUCATION

6. The Dispute Mediation Center Staff was

Very Helpful	Helpful	Somewhat Helpful	Not Very Helpful	Not Helpful at all
[]	[]	[]	[]	[]

Thank you for taking the time to check this form. If you have any comments, please use the other side of this sheet.

Appendix B2: Long Term Questionnaire

Program #_____

Case #_____

1. To what extent are the major terms of your agreement being upheld?

Fully

[]

Satisfactorily

[]

Not at all

[]

2. How satisfied were you with how your agreement is working?

Very
Satisfied

[]

Satisfied

[]

Somewhat
Satisfied

[]

Dissatisfied

[]

Not Satisfied
at all

[]

3. How satisfied were you with mediation as a way of resolving the problem?

Very
Satisfied

[]

Satisfied

[]

Somewhat
Satisfied

[]

Dissatisfied

[]

Not Satisfied
at all

[]

4. Would you bring a similar problem to the Dispute Resolution Center?

Definitely

[]

Probably

[]

Maybe

[]

Probably Not

[]

Definitely

Not

[]

5. Would you recommend this dispute resolution center to others who have similar problems?

Definitely

[]

Probably

[]

Maybe

[]

Probably Not

[]

Definitely

Not

[]

6. Did you feel mediation was a better way to resolve the problem than taking it to court or through the Judicial System?

Definitely

[]

Probably

[]

Maybe

[]

Probably Not

[]

Definitely

Not

[]

MEDIATION IN HIGHER EDUCATION

7. Do you think the mediators listened to both sides and understood the conflict?

Yes	For the		Not very	No, not
Completely	most part	Somewhat	much	at all
[]	[]	[]	[]	[]

8. Do you feel that you and the other persons involved in this matter had an equal say in reaching the agreement?

Yes	For the		Not very	No, not
Completely	most part	Somewhat	much	at all
[]	[]	[]	[]	[]

9. How would you describe your relationship with other party before the dispute (circle one)

1. Friends 2. Classmates 3. Roommates 4. Acquaintances
5. Strangers 6. Boyfriend/Girlfriend 7. Other

10. How would you describe your relationship with the other party since the mediation?

Improved	Same	Worsened
[]	[]	[]

11. Do you feel that the mediation process helped you with other conflicts?

Yes	For the		Not very	No, not
Completely	most part	Somewhat	much	at all
[]	[]	[]	[]	[]

Appendix C: Comparison of Case Characteristics

Item	\bar{X}	S.D.	Frequency	T-test
* <.05				
Days intake to disposition				
Immediate (N = 85)	7.4	5.2	NA	
Long Term (N = 20)	8.8	9.1	NA	
"Band-Aiding"				
Immediate (N = 85)				
Yes	NA	NA	31%	*
Long Term (N = 20)				
Yes	NA	NA	20%	
Amount of Time (minutes)				
Immediate (N = 85)	149	63	NA	
Long Term (N = 20)	170	51	NA	
Type of Dispute				
Immediate (N = 85)	NA	NA	Roommate 22%	
			Suitemate 36%	
			Harassment 9%	
			Physical 14%	
			Relationship 2%	*
			Other 15%	
Long Term (N = 20)	NA	NA	Roommate 20%	
			Suitemate 35%	
			Harassment 10%	
			Physical 15%	
			Relationship 10%	
			Other 10%	
Success				
Immediate (N = 85)				
Yes	NA	NA	80%	
Long Term (N = 20)				
Yes	NA	NA	75%	
Race				
Immediate (N = 85)	NA	NA	White 81%	*
			Black 14%	*
Long Term (N = 20)	NA	NA	White 90%	
			Black 05%	
Sex				
Immediate (N = 85)	NA	NA	Female 59%	
Long Term (N = 20)	NA	NA	Female 60%	

Appendix D: Characteristics of Questionnaires

Item	Range	\bar{X}	S.D.
N = 51			
Question 1 Immediate	1 - 5	2.0	.88
Question 2 Immediate	1 - 5	2.2	1.00
Question 3 Immediate	1 - 5	2.0	1.00
Question 4 Immediate	1 - 5	1.6	.90
Question 5 Immediate	1 - 5	1.5	.80
Question 6 Immediate	1 - 5	1.7	.80
		$\bar{\bar{X}} = 1.8$	
Question 1 Long	1 - 3	1.9	1.00
Question 2 Long	1 - 5	2.8	1.60
Question 3 Long	1 - 5	3.1	1.40
Question 4 Long	1 - 5	3.6	1.50
Question 5 Long	1 - 5	3.4	1.60
Question 6 Long	1 - 5	2.6	1.50
Question 7 Long	1 - 5	2.2	.80
Question 8 Long	1 - 5	3.0	1.20
Question 9 Long	1 - 7	4.4	2.00
Question 10 Long	1 - 3	2.2	.80
Question 11 Long	1 - 5	3.5	1.60
		$\bar{\bar{X}} = 2.9$	

Scale — 1 High—3 Medium—5 Low.

Appendix E: Perception Change

Question	\bar{X}	T-test	Sign.
How satisfied were you with Mediation as a way of resolving the problem?		* <.05	** <.10
Question 1 Immediate	2.0		
WITH		*	
Question 3 Long	3.1		
Would you bring a similar problem to the Dispute Mediation Center?			
Question 2 Immediate	2.2		
WITH		*	
Question 4 Long	3.6		
Would you Recommend this dispute resolution center to others who have a similar problem?			
Question 3 Immediate	2.0		
WITH		*	
Question 5 Long	3.4		
Did you feel Mediation was a better way to resolve the problem than taking it to court or through the judicial system?			
Question 4 Immediate	1.6		
WITH		**	
Question 6 Long	2.6		

Appendix F: Characteristics of Mediation

Item	Range	\bar{X}	S.D.	Frequency
Days intake to Disposition	1 – 19 days	7.4	5.2	NA
“Band-Aiding”				
	Yes	NA	NA	31%
	No	NA	NA	69%
Amount of Time (minutes)	30 – 270	149	63	NA
Type of Dispute				
	Harassment			9%
	Roommate			24%
	Physical			14%
	Suitemate			36%
	Girlfriend/Boyfriend			2%
	Other			15%
Success				
	Yes			80%
	No			20%

* N = 85

Appendix G: Characteristics of the Clients

Client's:	Frequency
Race:	
White	81.2%
Black	14.1%
Oriental	2.4%
Hispanic	2.4%
Sex:	
Male	41.2%
Female	58.5%
Class Year:	
Freshman	47.1%
Sophomore	34.1%
Junior	11.8%
Senior	5.9%
Graduate	1.1%

* N = 85

Appendix H: Characteristics of the Mediators

Mediator's:	Frequency
Race:	
White	82%
Black	6%
Oriental	0%
Hispanic	12%
Sex:	
Male	53%
Female	47%

Appendix I: Determinative Factors of Successful Cases

Variable	\bar{X}	S.D.	% Successful		χ^2
* <.05					
Days Until Mediation	7.6	4.6	NA		
Race	NA	NA	White	80%	*
			Black	67%	
			◇ Oriental	100%	
			◇ Hispanic	100%	
Sex	NA	NA	Male	94%	*
			Female	68%	
Class Year	NA	NA	Freshman	80%	
			Sophomore	79%	
			Junior	75%	
			Senior	80%	
			◇ Graduate	100%	
“Band-aiding”	NA	NA	Yes	38%	*
			No	97%	

◇ = 5 cases or less

Appendix J: Success According to Mediator's Race

Mediator's Race:	Success	Failure
White (N = 24)		
Participant's Race:		
White (N = 13)	85%	15%
Black (N = 9)	78%	22%
Oriental (N = 1)	100%	0%
Hispanic (N = 1)	100%	0%
Black (N = 3)		
Participant's Race:		
White (N = 1)	100%	0%
Black (N = 2)	100%	0%
Oriental	0%	0%
Hispanic	0%	0%
Hispanic (N = 7)		
Participant's Race:		
White (N = 6)	83%	17%
Black (N = 1)	0%	100%
Oriental	0%	0%
Hispanic	0%	0%

